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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,635	12/05/2003	Rashid A. Attar	010032C1	9090

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QUALCOMM, INC
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EXAMINER	
LY, NGHI H	

ART UNIT	PAPER NUMBER
2686	

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/728,635	ATTAR ET AL.	
	Examiner	Art Unit	
	Nghi H. Ly	2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 December 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date .
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-4 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 to 17 of Attar et al (U.S. Patent No. 6,757,520). Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Regarding claim 1, Attar teaches an apparatus for directing communication between a remote station and a plurality of sectors in a data communication system (see claim 1), the remote station including a list of eligible sectors (see claim 1), the apparatus comprising: means for determining at the remote station a quality metric of a forward link for each sector in the remote station's list (see claim 1), means for

determining a quality metric of a reverse link to each sector in the remote station's list, said means for determining the quality metric of the reverse link to each sector in the remote station's list comprising means for processing at the remote station the forward link from each sector in the remote station's list (see claim 1), said means for processing at the remote station the forward link from each sector in the remote station's list comprising: means for ascertaining a first signal value at a position in a first channel of the forward link for at least one sector in the remote station's list (see claim 1), means for determining the quality metric in accordance with said ascertained first signal value for the at least one sector in the remote station's list (see claim 1), means for ascertaining a second signal value at a position in a second channel of the forward link for remaining sectors in the remote station's list (see claim 1), and means for determining a second quality metric in accordance with said ascertained second signal value for the remaining sectors in the remote station's list (see claim 1), and means for directing communication between the remote station and one sector from the sectors in the remote station's list in accordance with said determined quality metric of a forward link and said determined quality metric of a reverse link (see claim 1), said means for directing communication between the remote station and one sector from the sectors in the remote station's list comprising: means for assigning credits to each sector in the remote station's list except the sector currently serving the remote station in accordance with said determined quality metric of a forward link (see claim 1), said determined quality metric of the reverse link, and said determined second quality metric of the reverse link (see claim 1), means for directing communication between the remote

station and one sector from the sectors in the remote station's list in accordance with said assigned credits (see claim 1), means for decreasing credits of a sector if said determined second quality metric of the reverse link for the sector and said determined second quality metric of the reverse link for a sector currently serving the remote station are greater than a second threshold (see claim 1), and means for decreasing a first type of credits of a sector if said determined quality metric of the reverse link for the sector is insufficient (see claim 1), or if said quality metric of a forward link of the sector is less than the quality metric of the forward link of the sector currently serving the remote station (see claim 1), and said first quality metric of the reverse link for a sector was not determined (see claim 1).

Regarding claim 2, Attar teaches decreasing a first type of credits comprises means for decreasing switching credits of the sector (see claims 1 and 4).

Regarding claim 3, Attar teaches increasing the first type of credits of a sector if: the sector's quality metric of a forward link is greater than the quality metric of the forward link of the sector currently serving the remote station (see claims 1 and 4), and the sector's determined second quality metric of the reverse link is less than the second threshold (see claims 1 and 4), or if: the sector's quality metric of a forward link is greater than the quality metric of the forward link of the sector currently serving the remote station (see claims 1 and 4), and the sector's determined quality metric of the reverse link is sufficient, and means for increasing a second type of credits of a sector if: the sector's quality metric of a forward link is greater than the quality metric of the forward link of the sector currently serving the remote station (see claims 1 and 4), said

determined second quality metric of the reverse link of the sector's quality metric of a reverse link is greater than the second threshold (see claims 1 and 4), and said determined second quality metric of the reverse link of the sector currently serving the remote station is less than the second threshold (see claims 1 and 4).

Regarding claim 4, Attar teaches increasing a second type of credits comprises means for increasing monitoring credits of the sector (see claims 1 and 4).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Mansour (US 6,741,582) teaches PCS CDMA cell having increased sector capacity.

b. Bassirat (US 6,745,051) teaches six sector antenna structure.

c. Goldberg (US 6,785,559) teaches system for efficiently covering a sectorized cell utilizing beam forming and sweeping.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (571) 272-7911. The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571) 272-7905. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nghi H. Ly

02/27/06

Marsha D Banks-Harold

MARSHA D. BANKS-HAROLD
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